APOLLO GLOBAL'S TIMESHARE SALES PITCH TO INSTITUTIONAL INVESTORS

Ivan Hou
UNITE HERE Local 5
ihou@5.unitehere.org

Will Investors Buy What Apollo is Selling and at Apollo's Price?

The Wall Street Journal reported on April 20, 2018 that Apollo Global Management has filed for a confidential initial public offering for its timeshare company Diamond Resorts. According to the report, Apollo could seek an IPO valuation of about $4 billion for Diamond, a dramatic increase from its 2016 acquisition price of $2.2 billion.

Investors may want to ask tough questions about the IPO, such as:

- What would justify an 81% increase in the company's valuation in two years?
- The Diamond board did not disclose what its chairman, founder and former CEO said about the company before he abstained twice from the vote to sell the company to Apollo two years ago. Will disclosure around this IPO be more complete?

Why Now?

It's unclear why now would be an opportunistic time for the private equity firm to unload its timeshare investment to the public. Apollo acquired Diamond only two years ago in a $2.2 billion deal for $30.25 per share.

Full Disclosure is Important

The valuation for Diamond during the 2016 deal process ranged from $23 per share to $33, settling on the final bid-winning $30.25. Even at that price Stephen Cloobeck, the company founder, former-CEO, then chairman and largest shareholder, did not support the transaction. Barely two years later the Wall Street Journal reported Apollo is looking to flip its timeshare investment.

Shareholder Class Action Revelations

A shareholder class action lawsuit was filed in 2016 against Diamond board members and Centerview Partners LLC. As of July 19, 2018 the suit was ongoing. The lawsuit revealed details about Cloobeck's non-support of the deal, his critical comments about the company's management and the disputed valuation of the company. The plaintiffs in this case allege Diamond's directors breached their fiduciary duties, ran a sales process that contained conflicts of interest and failed to disclose material information to shareholders about the transaction.

The Delaware Supreme Court kept the litigation alive when it reversed a lower court dismissal of the suit earlier this year (view the Supreme Court order, complaint and most recent publicly available defendants' brief in support of their renewed motion to dismiss). Referring to board meeting minutes, the higher court revealed that Cloobeck (Diamond's founder, former CEO, then-chairman and largest shareholder) abstained from supporting the company's sale and abstained from ultimately approving the deal because:

> "*he was disappointed with the price and the company's management for not having run the business in a manner that would command a higher price, and that in his view, it was not the right time to sell the company.*"

The court noted that Cloobeck had twice abstained from voting on the sale because he said mismanagement of Diamond Resorts had negatively affected the sale price and therefore it was the wrong time to sell the company. The court held that Cloobeck's views were material and said:

> *"For a Chairman to abstain from voting on the sale of the business he founded and led is no common thing, and when his reasons for doing so contradict the board's recommendations to the stockholders, it is difficult for us to understand how the omission was inadvertent."*

The court returned the case to the Delaware Chancery Court proceedings. The defendant directors have renewed their motion to dismiss the case. The directors asked the court to treat their motion as confidential so the public is prevented from seeing all of the facts on which they rely. Despite the pendency of the motion, discovery proceedings are taking place.

Valuation questions have plagued the timeshare company in recent transactions. Diamond Resorts' initial 2013 IPO price of $14 per share fell short of its expected price range of $16-$18.

Investors looking at an IPO attempt now by Apollo should ask what has changed in the less than two years since Apollo acquired Diamond for $2.2 billion to justify the reported $4 billion valuation sought in this IPO. Furthermore, what specific concerns did founder, former CEO and Chairman Stephen Cloobeck have behind his argument that management failed to run the business in a manner that would command a higher price in 2016?